

## The State Bar of California

### **Requirements and Procedures Under *Keller v. State Bar of California*; Statement of Expenditures of Mandatory Membership Fees for 2007 and Independent Auditors' Report**

Under *Keller v. State Bar of California*, 496 U.S. 1 (1990), the State Bar may constitutionally use mandatory membership fees to fund activities germane to the State's interest in regulating the legal profession and improving the quality of legal services; it may not, however, under the First Amendment, use mandatory dues to fund activities of an ideological or political nature which fall outside of those areas of activity. To permit members to gauge the propriety under *Keller* of the annual membership fee that they are charged and must pay, the State Bar prepares a statement of its expenditures of mandatory membership fees using the most recently audited expenses categorized by program areas. See *Keller*, 496 U.S. 17, citing *Teachers v. Hudson*, 475 U.S. 292 (1986).

Members of the State Bar are not required to pay and may deduct five dollars from their annual dues if they do not wish to support legislative activities of the State Bar. Cal. Bus. & Prof. Code § 6140.05. The California Legislature and the Board of Governors of the State Bar have limited the amount that may be spent on State Bar legislative activities to the revenue paid voluntarily by members who do not take the five dollar deduction. Members may also deduct five dollars from the annual dues if they do not wish to support the State Bar's Bar Relations and Elimination of Bias programs; expenses of these programs are similarly restricted by the Board of Governors to voluntary payments by those members not taking the deduction or other voluntary sources. (Instructions for taking the deductions may be found in the 2009 Membership Fee statement, which has been mailed to members.) In addition, the State Bar is prohibited from funding any activities of State Bar Sections with mandatory dues. Cal. Bus. & Prof. Code § 6031.5(a). The annual audit of the State Bar includes an examination of the receipts and expenditures of the State Bar and its Sections to assure compliance with this restriction. Cal. Bus. & Prof. Code § 6145(a). These expenses have been excluded from the mandatory dues charged to members.

After reviewing the [Statement of Expenditures of Mandatory Membership Fees for 2007 and Independent Auditors' Report](#), a member may object and challenge the mandatory membership fees for 2009 on the ground that one or more of the chargeable expense categories are not germane under *Keller* to regulating the legal profession or improving the quality of legal services. A member's challenge must be submitted on the [Challenge to Mandatory Membership Fees Form](#). Instructions and procedures are included with the form. A challenger must complete, sign, and submit the Form by the due date for payment of the annual membership fee; **the challenge must be accompanied with timely and full payment of the 2009 membership fee less only the deductions for the State Bar's Legislative Activities and the Bar Relations & Elimination of Bias programs.**

**Any challenge and payment must be postmarked or delivered by Monday, February 2, 2009, to:**

SECRETARY  
THE STATE BAR OF CALIFORNIA  
180 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-1639

Upon receipt of a timely and proper challenge, the State Bar will place the disputed amount of the challenger's mandatory dues in an interest-bearing escrow account. At its next regularly scheduled meeting following the deadline or as soon thereafter as the matter may be considered, the Board of Governors will decide whether to provide an additional deduction to the challenger or to submit the dispute for expeditious arbitration before an impartial arbitrator. If the dispute is submitted for arbitration, the Board may consolidate all challenges. The challenger(s) and the State Bar by agreement may select an impartial arbitrator. In consolidated challenges, the arbitrator may be selected by an agreement between the State Bar and 75 percent of the challengers. If there is no agreement on an impartial arbitrator within 30 days following the decision to arbitrate, an impartial arbitrator will be appointed by the American Arbitration Association. The arbitration will be heard at the San Francisco office of the State Bar. The proceedings are informal, and the State Bar will have the burden to show that the disputed activities are germane to the State Bar's purposes of regulating the legal profession or improving the quality of legal services. The challenger(s) will be given an opportunity to present their own evidence and to present written arguments in support of their challenge(s). The arbitrator will issue a written decision and any award.